

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

June 9, 1999

David C. Tinling, Physician  
86 Sibley Road  
Honeoye Falls, New York 14472

Re: Application Restoration

Dear Dr. Tinling:

Enclosed please find the Commissioner's Order regarding Case No. 99-60-64 which is in reference to Calendar No. 16669. This order and any decision contained therein goes into effect five (5) days after the date of this letter.

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations

GUSTAVE MARTINE  
Supervisor

DJK/GM/er

cc: Edward Fox, Esq.  
Harris, Beach & Wilcox  
130 East Main Street  
Rochester, New York 14604

RECEIVED  
JUN 11 1999  
OFFICE OF PROFESSIONAL  
MEDICAL CONDUCT

The University of the State of New York  
Education Department



IN THE MATTER

of the

Application of DAVID C. TINLING  
for restoration of his license to  
practice as a physician in the State of  
New York.


Case No. 99-60-64

It appearing that the license of DAVID C. TINLING, 86 Sibley Road, Honeoye Falls, New York 14472, authorizing him to practice as a physician in the State of New York, was revoked by action of the Administrative Review Board for Professional Medical Conduct on October 17, 1994, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on April 27, 1999, it is hereby

ORDERED that the petition for restoration of License No. 095606, authorizing DAVID C. TINLING to practice as a physician in the State of New York, is denied, but that the execution of the order of revocation of said license is stayed, and said DAVID C. TINLING is placed on probation for a period of five years under specified terms and conditions.

IN WITNESS WHEREOF, I, Richard P. Mills,  
Commissioner of Education of the State of New York for  
and on behalf of the State Education Department, do  
hereunto set my hand and affix the seal of the State  
Education Department, at the City of Albany, this  
day of May, 1999.

Commissioner of Education

  
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Case No. 99-60-64

It appearing that the license of DAVID C. TINLING, 86 Sibley Road, Honeoye Falls, New York 14472, to practice as a physician in the State of New York, having been revoked by action of the Administrative Review Board for Professional Medical Conduct on October 17, 1994, and he having petitioned the Board of Regents for restoration of said license, and the Regents having given consideration to said petition and having agreed with and accepted the recommendations of the Peer Review Panel and the Committee on the Professions, now, pursuant to action taken by the Board of Regents on April 27, 1999, it was

VOTED that the petition for restoration of License No. 095606, authorizing DAVID C. TINLING to practice as a physician in the State of New York, be denied, but that the order of revocation of said license shall be stayed, and said DAVID C. TINLING shall be placed on probation for a period of five years under specified terms and conditions.

Case Number 99-60-64  
January 25, 1999

THE UNIVERSITY OF THE STATE OF NEW YORK  
The State Education Department

Report of the Committee on the Professions  
Application for Restoration of Medical License

Re: **David C. Tinling**

Attorney: Edward Fox

David Tinling, 86 Sibley Road, Honeoye Falls, New York, 14472, petitioned for restoration of his physician license. The chronology of events is as follows:

- |          |  |
|----------|--|
| 09/30/65 | Issued license number 095606 to practice medicine in New York State.   |
| 07/14/93 | Charged with professional misconduct by Department of Health. (See Disciplinary History.)                              |
| 08/02/93 | Commissioner of Health issues Summary Order suspending license.  |
| 06/24/94 | Hearing Committee of State Board for Professional Medical Conduct voted revocation.                                    |
| 10/17/94 | Determination and Order of Administrative Review Board for Professional Medical Conduct sustaining revocation.         |
| 10/24/94 | Effective date of revocation.  |
| 03/19/96 | Application for restoration submitted.   |
| 02/27/98 | Peer Committee restoration review.   |
| 11/21/98 | Report and recommendation of Peer Committee. (See "Recommendation of the Peer Committee.")                             |
| 01/25/99 | Report and recommendation of Committee on the Professions. (See "Recommendation of the Committee on the Professions.") |

**Disciplinary History.** (See attached Administrative Review Board Decision and Order No. ARB 94-97.) On July 14, 1993, the Department of Health charged Dr. Tinling, a psychiatrist, with 39 specifications of professional misconduct, including incompetence on more than one occasion; negligence on more than one occasion and failure to maintain adequate records in the treatment of 13 persons, Patients A-M; with gross negligence and gross incompetence in the treatment of Patients A, B, D-K, and M; with revealing information without prior patient consent in the case of patient M; and with misconduct for violating Article 33 of the Public Health Law. On August 2, 1993, the Commissioner of Health issued a Summary Order suspending Dr. Tinling from the practice of medicine immediately, based upon a determination that Dr. Tinling's continued practice constituted an imminent danger to the public health.

On June 24, 1994, a Hearing Committee of the State Board for Professional Medical Conduct found Dr. Tinling guilty of all charges, although not each specification of every charge. They found that for all the patients he had failed to maintain adequate records and obtain an adequate mental status evaluation. The Committee found that as to some of the patients, he had failed to obtain or record mental status evaluations, failed to explore other diagnostic or treatment options, and failed to record adequate notes about drugs prescribed. Additionally, the Committee found that in the treatment of some of the patients, Dr. Tinling had prescribed drugs in excessive doses, prescribed drugs that were not indicated or were contraindicated, had prescribed drugs without obtaining proper tests or consultations, had prescribed drugs without having seen patients in treatment for a considerable period of time, and had prescribed drugs over excessive periods of time. They found that Dr. Tinling had failed to adequately evaluate and record on one patient's report that the patient was "off and on" suicidal, had failed to address one patient's use of cocaine, and had provided information obtained in a professional capacity about that patient to a collection agency without the patient's consent. Lastly, the Committee found that he had violated provisions of Article 33 of the Public Health Law, dealing with prescribing controlled substances. The Hearing Committee voted 2-1 to revoke Dr. Tinling's license.

Dr. Tinling requested a review of the Hearing Panel's determination. On September 16, 1994, an Administrative Review Board for Professional Medical Conduct met and voted to sustain the Hearing Committee's findings and its determination to revoke Dr. Tinling's license. The revocation became effective October 24, 1994.

On March 19, 1996, Dr. Tinling submitted his application for restoration of his license.

**Recommendation of the Peer Committee.** (See attached Report of the Peer Committee.) The Peer Committee (Lee, Colgan, Corona) met on February 27, 1998. In its report dated November 21, 1998, the Committee recommended

that the order of revocation be stayed and that Dr. Tinling be placed on probation for five years under specified terms and conditions, including a restriction that he "practice only in an academic teaching setting supervised by a licensed, board certified psychiatrist with quarterly employee reports" and that he take at least 100 hours of specified continuing medical education in addition to the continuing education courses required of all physicians licensed in this State.

**Recommendation of the Committee on the Professions.** On January 25, 1999, the Committee on the Professions (Duncan-Poitier, Ahearn, Muñoz) met with Dr. Tinling to consider his application for restoration of his physician license. Mr. Edward Fox, his attorney, accompanied him. Dr. Tinling presented the Committee with a list of his professional activities since February 27, 1998, and a letter, dated January 5, 1999, from Aaron Satloff, M.D., Clinical Professor of Psychiatry, University of Rochester School of Medicine, indicating his willingness to supervise Dr. Tinling's office practice of medical psychotherapy and to offer him a volunteer position in one of the Special Needs Plan Clinics for the seriously mentally ill in a rural area.

The Committee asked Dr. Tinling to explain why he lost his license. He responded that he was "occupying a niche in my community's practice. He indicated that he was one of the first physicians to use psychopharmacology in treating complex and difficult patients. He said that he left academia for private practice, but didn't fully make the transition. Dr. Tinling stated that he often kept his patient records in his "own shorthand" and knows that his record keeping was faulty. He reported that his practice involved the more complex cases, that pharmacology was not used by many psychiatrists at that time, and his prescribing, combined with his inadequate record keeping, was viewed as inappropriate. Dr. Tinling said that, looking back, he now knows that he didn't really understand at the time what records were expected of him. The Committee asked if he did anything else wrong. He replied that he should have consulted with other physicians. He said that by not clearly documenting what he was doing and keeping complete patient records, it looked like he was acting recklessly. Dr. Tinling reported that he had witnesses who had testified that "this is what is done" in psychopharmacology, but said that questions are always raised whenever you go outside standard practice. He said that one of his patients committed suicide.

The Committee asked about the patient in Ohio for whom he was prescribing medication. Dr. Tinling responded that the patient was a graduate student in music who was home every two or three months and he had some telephone contacts with him. He said that the patient was told he had to be on dietary restrictions, but "he was fudging without telling me." Dr. Tinling reported that the patient felt Parnate had transformed his life, but by not adhering to his diet, he bled and was taken to the Emergency Room. Dr. Tinling indicated that he helped many people in the arts, many of whom came from poor blue-collar homes, and often treated them for reduced fees. He said that he should have



maintained better contact with the young man and said to him, "You took cheese. You can't have Parmate any more."

The Committee asked about the patient who committed suicide. Dr. Tinling answered that he died of an overdose and he never realized that the patient was opiate-dependent. He said that it was a very complex case where the patient was leaving his job, his girlfriend had left him, he couldn't work with his family, he had been in the hospital, and he didn't want to be hospitalized any more. Dr. Tinling reported that the patient didn't reveal to him that he was going to other doctors and getting other medication. He told the Committee that he felt devastated because of the patient's suicide and kept going over and over the case to try to determine why he didn't know about or see any signs of alcohol or opiate dependency. The Committee asked Dr. Tinling if he felt responsible for the patient's death. He replied that he shares responsibility by not picking up on the opiate dependency. He said that he could have asked the patient if he was taking any other medications. Dr. Tinling told the Committee that he knew the patient had previously attempted suicide at least two times and that he continues to question what, if any, steps could have been taken to prevent the suicide. The Committee asked if hospitalization was an option. He responded that the patient had been hospitalized many times and told him that he wouldn't stay again.

Dr. Tinling stated, "I made clinical mistakes and take responsibility." He said that the patients he saw were those that usually had tried other treatments to no avail. He said that he realizes in many cases he did inadequate testing before trying drugs in various doses. He indicated that many of the patients were "treatment-resistant" and the "dosage used is the one that works." Dr. Tinling admitted that in making the transition from academia to private practice, he did not use the University of Rochester model of conducting formal mental status examinations. He indicated that while at the University, he could also discuss his cases with fellows, residents, and other doctors. He said that in private practice, he was all alone. Dr. Tinling indicated that because of his caseload he abandoned record-keeping procedures he had followed at the university to develop his own shorthand notes. He said that at the time, he just didn't ask, "Shouldn't I be doing the same thing here?" Dr. Tinling told the Committee that he has always been a patient advocate, even while conducting research, but should also have paid more attention to evaluations, procedures and record keeping.

Dr. Tinling said that if his license were restored, he would want a more standard type of practice for 15-20 hours per week, not one where he was the last person in the chain for difficult patients. He reported that in the past he had gotten the complex patients that nobody else wanted to treat. Additionally, he said that he would like to have a couple of days a week to write. Dr. Tinling said that he would like to practice in conjunction with another doctor, perhaps at a medical center. He stated that he would like to become more the person's advocate and therapist rather than being off by himself in an office as a

psychopharmacologist. Regarding the terms of probation recommended by the Peer Committee, Dr. Tinling told the Committee that at 65 years of age he was not sure he could be hired by a university. He said he would like to practice in other settings and referred to the letter from Dr. Satloff who indicated he would be willing to supervise him.

Dr. Tinling told the Committee that he has continued to remain current in his profession and referred to the list of professional activities he handed out at the beginning of the meeting. He said that he continues to talk with colleagues, reads many journals, and attends whatever meetings he can. He indicated that with his telephone and television satellite disk he can become involved with educational programs around the country. Dr. Tinling said, "I know I screwed up. I did things I'm not proud of. I would like a chance for redemption." He indicated that he is willing to be monitored during a probationary period and meet whatever conditions might be attached to the restoration of his license. Dr. Tinling said that during the hearings with the Department of Health he took a very aggressive stance as he felt cornered and felt he had to defend himself. He told the Committee that he wanted them to know that he is not denying the charges.

The Committee on the Professions (COP) concurs with the Peer Committee that Dr. Tinling has made a significant effort at rehabilitation, has demonstrated that he is remorseful, and has made a good effort to keep abreast of the practice of medicine. The COP notes that Dr. Tinling admitted to them that he was overly defensive at the Department of Health hearings and felt he needed to deny all charges. He didn't acknowledge at that time what he had done but presented convincing evidence during the restoration process to demonstrate that he fully comprehends what he did wrong and the steps he would take to ensure that the misconduct would not recur. The COP notes that he produced a number of good witnesses at the original hearings who testified in his behalf regarding the controversial treatments in an emerging field of psychiatry. The COP believes that the record shows that although Dr. Tinling may have been an excellent academician and researcher, he was not a good clinician. His shortcomings included more that a failure to keep adequate records, but a failure to pick up from his patients what was significant and, perhaps, not writing it down because he didn't feel it was significant. Dr. Tinling had difficult patients who had tried unsuccessfully more standard forms of therapy. Dr. Tinling demonstrated to the COP that he now realizes that this did not give him a free hand to concoct experimental therapies as he went along.

The COP, as did the Peer Committee, found Dr. Tinling to be credible and convincing. The Department of Health is not supporting the application for restoration and feels that he has not undertaken formal reeducation or training, has not addressed the inappropriateness of his prescribing practices and his flawed judgment regarding the psychiatrist/patient relationship. Additionally, they mention his arrogance during the hearing process. The COP finds that Dr. Tinling has undertaken formal training, has been a psychotherapist on a part-



time basis, and has presented lectures at professional meetings. Additionally, the COP finds that Dr. Tinling has addressed his perceived arrogance and he has adequately addressed the other concerns raised in a meaningful way. The COP finds that Dr. Tinling demonstrated that he has carefully reviewed his prior actions, demonstrated his understanding of what went wrong, and would not be a threat to the public were his license restored. However, because of the serious nature of the original misconduct and Dr. Tinling's poor record as a clinician, the COP agrees with the Peer Committee that his reentry into practice should be gradual and monitored for a five-year period. The COP, however, believes that restricting him to an "academic teaching setting" may not be realistic and recommends that the setting be changed to an Article 28 facility under the supervision of a licensed, board certified psychiatrist.

Therefore, after a complete review of the record, including its meeting with Dr. Tinling, the Committee on the Professions voted to concur with the recommendation of the Peer Committee that the order of revocation of Dr. Tinling's license to practice as a physician in the State of New York be stayed for five years, that he be placed on probation for five years under specified terms and conditions attached to this report and labeled Exhibit "B," and that upon successful completion of the probationary period Dr. Tinling's license be fully restored.

Johanna Duncan-Poitier, Chair

Kathy A. Ahearn

Frank Muñoz

EXHIBIT "B"

TERMS OF PROBATION  
OF THE COMMITTEE ON THE PROFESSIONS  
FOR

DAVID C. TINLING

1. That applicant, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing applicant's profession;
2. That applicant shall submit written notification to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, 433 River Street, Suite 303, Troy, New York 12180, of any employment and/or practice, applicant's residence, telephone number, or mailing address, and any change in employment, practice, residence, telephone number or mailing address within or without the State of New York;
3. That applicant shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that applicant has paid all registration fees due and owing to the NYSED and applicant shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by applicant to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. That applicant shall submit written proof to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, that 1) applicant is currently registered with the NYSED, unless applicant submits written proof that applicant has advised DPLS, NYSED, that applicant is not engaging in the practice of applicant's profession in the State of New York and does not desire to register, and that 2) applicant has paid any fines which may have previously been imposed upon applicant by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. That applicant shall only practice as a physician in an Article 28 facility under the supervision of a licensed physician, board certified in psychiatry, said supervising physician and said setting to be selected by applicant and previously approved, in writing, by the Director of the Office of Professional Medical Conduct. Said supervision shall include the random selections and review by said supervisor of applicant's patients records, office records and hospital charts in regard to applicant's practice and applicant shall also be required to make such records available to said supervisor at any time requested by said supervisor and that said supervisor shall submit a report, once every three months, regarding the above-mentioned supervision of applicant's practice to the Director of the Office of Professional Medical Conduct;

6. That applicant shall satisfactorily complete during the probationary period at least 100 hours of continuing medical education as follows: 40 hours regarding psychiatric pharmacology; 20 hours regarding the medical and legal issues involved in record keeping and the obligations of practice; and 40 hours in general psychiatry. Said 100 hours shall be in addition to the continuing education courses required of all physicians licensed to practice in the State of New York.
7. That applicant shall make quarterly visits to an employee of the Office of Professional Medical Conduct of the New York State Department of Health, unless otherwise agreed to by said employee, for the purpose of said employee monitoring applicant's terms of probation to assure compliance therewith, and applicant shall cooperate with said employee, including the submission of information requested by said employee, regarding the aforesaid monitoring; and
8. That upon receipt of evidence of noncompliance with or any other violation of any of the aforementioned terms of probation, the Department of Health may initiate a violation of probation proceeding and/or such other proceedings pursuant to the Public Health Law, Education Law, and/or Rules of the Board of Regents.



# The University of the State of New York

NEW YORK STATE EDUCATION DEPARTMENT  
OFFICE OF PROFESSIONAL RESPONSIBILITY  
STATE BOARD FOR MEDICINE

-----X  
In the Matter of the Application of

DAVID C. TINLING

REPORT OF  
THE PEER  
COMMITTEE  
CAL. NO. 16669

for the restoration of his license to  
practice as a physician in the State of  
New York.

-----X  
Applicant, DAVID C. TINLING, was authorized to practice as a  
physician in the State of New York by the New York State Education  
Department.

## PRIOR DISCIPLINE

On July 14, 1993 applicant was charged with incompetence on  
more than one occasion, negligence on more than one occasion and  
failure to maintain adequate records in the treatment of thirteen  
patients. He was also charged with gross negligence and gross  
incompetence in the treatment of eleven of those thirteen patients,  
with revealing confidential information without the consent of the  
patient, and with misconduct for having violated Article Thirty-  
three of the Public Health Law.

DAVID C. TINLING (16669)

On August 2, 1993 a Summary Order was issued suspending applicant's license to practice based upon the determination that applicant's continued practice had constituted an imminent danger to the public health. Hearings commenced October 1, 1993 and continued until February 4, 1994.

On June 29, 1994 applicant was found to be guilty on all charges, but not on each specification of every charge. The Hearing Committee found that applicant had failed to maintain adequate records for all patients and had failed to obtain an adequate mental status evaluation for them. He also failed to explore diagnostic and treatment options and failed to record adequate notes for drugs prescribed by him. In some instances, he prescribed drugs in excessive doses, prescribed drugs that were not indicated or were contraindicated, prescribed without proper testing or consultations and prescribed drugs over excessive periods of time. Applicant had failed to adequately evaluate and record a patient's report that he was suicidal, had failed to address another patient's use of cocaine and had provided confidential information obtained in a professional capacity about a patient to a collection agency. He had also been found guilty of misconduct based upon a Stipulation dated October 15, 1992 admitting that he had violated Article Thirty-three of the Public Health Law. Specifically, he had prescribed Dexedrine, Ritalin, Demerol, Valium, and Klonopin in excess of the proscribed 30 day supply. The Hearing Committee voted two to one to revoke



DAVID C. TINLING (16669)

applicant's license to practice and cited that the number of violations was significant by any standard. The decision also noted a persistent sense of arrogance demonstrated by applicant which led the majority to believe that a course of re-education and training would be problematic. It was felt that he had not demonstrated that he would alter his prescribing practices. One panel member agreed with the findings, but felt that revocation was too harsh a penalty.

Applicant requested review of the decision on September 16, 1994. The Administrative Review Board considered his brief. Applicant contended that the revocation was too harsh and that the Hearing Committee had neglected his expert testimony that supported the dosages and combinations of drugs prescribed by him. He also noted that he would be willing to change his record keeping and cited his compliance with Article Thirty-three after having entered into his Stipulation with the Commissioner of Health. The Review Board issued its order dated October 17, 1994 wherein the revocation was sustained. The decision noted that "although the respondent's record keeping was abysmal, it was the least of the problems in the respondent's practice and the improvement of the respondent's record keeping would not address the areas of his practice that constitute the greatest threat to the public health." The decision continued to state that applicant had clearly placed his patients at risk and that he constituted a clear danger to his patients.

DAVID C. TINLING (16669)

#### THE APPLICATION

On March 19, 1996 applicant petitioned the New York State Education Department for the restoration of his license to practice as a physician in the State of New York.

The application begins by setting forth each thing applicant was found guilty of and then addressing how applicant will avoid such problems in the future.

Applicant goes on to say that his background in medical school, in residency, in the military and as a faculty member demonstrates that he has the ability to function at a high level.

He goes on to say what he has done to keep current with his profession.

He concludes with some personal information and his hopes for the future.

#### THE MEETING

On February 27, 1998 this Peer Panel met to consider the application in this matter. Applicant appeared and was represented by Edward Fox, Esq. Franklyn Perez, Esq. represented the Division of Prosecutions of the Office of Professional Discipline.

Applicant offered additional documents at the meeting (including record keeping forms) which were accepted and which are made a part of the material herein.

Applicant spoke to the committee and repeated much of what was stated in his application.

He stated that he did not make a proper adjustment from the

DAVID C. TINLING (16669)

academic life to private practice.

He went on to explain why he had continued to keep a listing in the yellow pages after the revocation of his license.

He then explained his relationship with nurse Sue Lennon and Dr. Wells.

Applicant answered questions regarding the use of drugs in the practice of psychiatry in general and in his practice.

He explained that he had kept patient records as he had in his research and acknowledged that such records would not be useful to others.

Applicant then addressed what type of practice he would like if he was reinstated and answered questions about what he had learned from his experiences between 1979 and 1994.

Applicant was asked about what continuing education he had done regarding the use of drugs in psychiatry and he stated he has read the journals and gone to meetings and done phone conferences.

In response to questions regarding his failure in the past to keep valid records, applicant stated he would in the future use the forms that he had submitted at this meeting to keep good records.

Applicant was questioned further regarding the use of drugs in practice, about the use of the forms he submitted and about screening out difficult patients.

The parties then made closing statements.

#### RECOMMENDATION

We unanimously recommend that the application herein be

DAVID C. TINLING (16669)

granted and that the revocation of applicant's license to practice medicine in the State of New York be stayed. Applicant has made a significant effort at rehabilitation. We could see this in his demeanor as well as the documents presented.

Applicant has demonstrated to this panel that he is remorseful. Applicant has made a good effort to keep abreast of the practice through medical journals, meetings and contact with colleagues.

We further recommend that applicant be placed on probation for a period of five years under the standard terms of probation plus the following term of probation:

1. That during the period of probation applicant shall practice only in an academic teaching setting supervised by a licensed, board certified psychiatrist with quarterly employee reports.
2. That applicant shall take during the probationary period at least 100 hours of continuing medical education as follows:
  - 40 hours regarding psychiatric pharmacology;
  - 20 hours regarding the medical and legal issues involved in record keeping and the obligations of practice; and
  - 40 hours in general psychiatry.

Said 100 hours shall be in addition to the continuing education courses required of all physicians licensed to practice in the State of New York.

DAVID C. TINLING (16669)

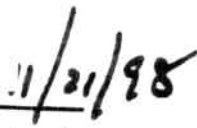
Respectfully submitted,

RICHARD V. LEE, M.D., Chairperson

MARGARET T. COLGAN, M.D.

ROBERT CORONA, D.O.

  
\_\_\_\_\_  
Chairperson

  
\_\_\_\_\_  
Dated